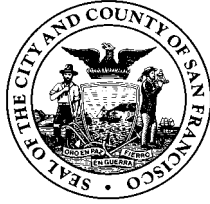


**SUNSHINE ORDINANCE
TASK FORCE**



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**ORDER OF DETERMINATION
March 2, 2018**

DATE ISSUED
December 19, 2017

CASE TITLE – Michael Addario v. Kate Patterson and the Arts Commission
(File No. 17070)

FACTS OF THE CASE

On June 22, 2017, the following petition/complaint was filed with the Sunshine Ordinance Task Force (SOTF):

File No. 17070: Complaint filed by Michael Addario against Kate Patterson and the Arts Commission for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.24, by failing to respond to a public records request in a complete manner.

HEARING ON THE COMPLAINT

On September 26, 2017, the Complaint Committee (Committee) acting in its capacity to hear petitions/complaints heard the matter and referred it to the SOTF for hearing.

Mike Addario (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Addario provided a history summary of his request and stated that he has not received the requested records. Mr. Addario, upon questioning from the Committee, stated that he would like information which show who authorized Mr. Lazaar (Arts Commission), in 1974 to undermine the enforcement of Proposition J. Kate Patterson, Arts Commission (Respondent), provided a summary of the department's position. Ms. Patterson stated that Mr. Lazar has retired. Ms. Patterson stated that the Arts Commission does not have any records regarding any relevant advice provided by the Office of the City Attorney's to Mr. Lazar and that it is her understanding that any advice provided by the Office of the City Attorney was in a verbal format. Ms. Patterson stated that if any records exist it would be protect under Attorney Client privilege.

The Committee suggested that the Arts Commission should have assisted Mr. Addario and directed him to request the records from the City Attorney's Office. The Committee suggested that there may be phone records in possession of the Office of the City Attorney.

On December 19, 2017, the SOTF held a hearing to review the recommendation from Committee and/or to review the merits of the petition/complaint.

Michael Addario (Petitioner), provided a summary of the complaint and requested the SOTF to find violations. Mr. Addario stated that he does not believe that the Arts Commission's statement that they do not have the records in question and stated that the invocation of Attorney Client privileges is not appropriate. There were no speakers in support of the Petitioner. Kate Patterson, Arts Commission (Respondent), provided a summary of the department's position. Ms. Patterson stated that the requested documents are over 30 years old and that the possible creator of the document, Howard Lazar, has retired. Ms. Patterson stated that the Arts Commission has performed a search for the records in question and has not found any responsive documents. Ms. Patterson provided the hypothetical that if any records were found which consisted of City Attorney advice to a Mr. Lazar it would be considered protected due to Attorney Client privileges. There were no speakers in support of the Respondent. A question and answer period followed. The Petitioner and Respondent were provided an opportunity for rebuttals.

FINDINGS OF FACT AND CONCLUSION OF LAW

Based on the testimony and evidence presented the SOTF found that Kate Patterson and the Arts Commission did not violate Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.24.

ORDER OF DETERMINATION

Member J. Wolf, seconded by Member Cannata, moved to find that Kate Patterson and the Arts Commission did not violate Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.24.

The motion PASSED by the following vote:

Ayes: 7 – Eldon, J. Wolf, Maass, Cannata, Fischer, Hinze, B. Wolfe
Noes: 0 – None
Absent: 3 – Chopra, Tesfai, Hyland



Bruce Wolfe, Chair
Sunshine Ordinance Task Force

- c. Michael Addario (Petitioner/Complainant)
Kate Patterson, Arts Commission (Respondent)